Approved Code No. 209 Registry No. 1640—06

NATIONAL RECOVERY ADMINISTRATION

CODE OF FAIR COMPETITION

FOR THE

MUSICAL MERCHANDISE MANUFACTURING INDUSTRY

AS APPROVED ON JANUARY 16, 1934

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Approved Code No. 209

CODE OF FAIR COMPETITION

FOR THE

MUSICAL MERCHANDISE MANUFACTURING INDUSTRY

As Approved on January 16, 1934

ORDER

APPROVING CODE OF FAIR COMPETITION

FOR THE

MUSICAL MERCHANDISE MANUFACTURING INDUSTRY

An application having been duly made pursuant to and in full compliance with the provisions of Title I of the National Industrial Recovery Act, approved June 16, 1933, for approval of a Code of Fair Competition for the Musical Merchandise Manufacturing Industry, and hearings having been duly held thereon and the annexed report on said Code, containing findings with respect thereto, having been made and directed to the President:

NOW, THEREFORE, on behalf of the President of the United States, I, Hugh S. Johnson, Administrator for Industrial Recovery, pursuant to authority vested in me by Executive Orders of the President, including Executive Order No. 6543-A, dated December 30, 1933, and otherwise; do hereby incorporate by reference said annexed report and do find that said Code complies in all respects with the pertinent provisions and will promote the policy and purposes of said Title of said Act; and do hereby order that said Code of Fair Competition be and it is hereby approved.

HUGH S. JOHNSON,
Administrator for Industrial Recovery.

Approval Recommended:
GEORGE L. BERRY,
Division Administrator.

WASHINGTON, D.C.,
January 16, 1394.

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The PRESIDENT,
The White House.

SIR: A Public Hearing on the Code of Fair Competition for the Musical Merchandise Manufacturing Industry, submitted by the National Association of Musical Merchandise Manufacturers, located at 45 West 45th Street, New York, N.Y., was conducted in Washington on the 15th of November 1933 in accordance with the provisions of the National Industrial Recovery Act. The Association claims to represent eighty (80%) percent of the Industry.

The maximum hours permitted under this Code are forty (40) hours per week, averaged over a four (4) weeks' period; provided, however, that such employees shall not be employed more than forty-eight (48) hours in any one (1) week; and provided further that such employees may be permitted to work a total of not to exceed eighty (80) additional hours during any twelve (12) months' period. For clerical or office employees a maximum of forty (40) hours per week is provided, except that at inventory periods, such employees may work a maximum of forty-eight (48) hours per week for a total of not to exceed three (3) weeks in each six (6) months' period. However, overtime at the rate of time and one third is provided for all hours per week over forty (40).

The minimum wage scale for male employees is thirty-five (35¢) cents per hour. The minimum wage for female employees is thirty-two (32¢) cents per hour, and for clerical or office employees a minimum wage of fifteen ($15.00) dollars per week is provided, except that office boys and office girls who are between the ages of sixteen (16) and eighteen (18) years may be employed at a rate not less than eighty percent (80%) of such minimum wage and are to be limited to one (1) in number or five percent (5%) of the total number of clerical and office employees employed by any member of the Industry.

Because of the fact that a musical instrument is not classed as a necessity of life, but is a commodity which supplies a cultural want of mankind, it is not purchased until the more vital needs have been supplied. Not until prosperity has become well established will this Industry experience a real upturn in business, with the resultant reemployment of a substantial number of employees. Based on information furnished by this Industry, wage-earner employment declined 33.3 percent from 1928 to 1932.

On the basis of a 40-hour week, 160 wage earners should benefit through reemployment, bringing the total number of wage earners to 960.

The total value of products for the year 1928 was $3,160,000. Since then the value of products has gradually decreased from year to year until during 1932 it amounted to only $1,228,000 or 61.1 percent under the 1928 total. The percentage of decrease of each succeeding year including 1932 under the 1928 total was 22.9, 26.3, 38.4, and 61.1, respectively.

Even though 1928 was a peak year, the establishments actually were then operating at 79 percent of their capacity. While the capacity has remained almost the same for each year since 1928, having declined only 12.5 percent, production has declined 61.1 percent.

FINDINGS

The Deputy Administrator in his final report to me on said Code having found as herein set forth and on the basis of all the proceedings in this matter;

I find that:

(a) Said Code is well designed to promote the policies and purposes of Title I of the National Industrial Recovery Act, including removal of obstructions to the free flow of interstate and foreign commerce which tend to diminish the amount thereof and will provide for the general welfare by promoting the organization of industry for the purpose of cooperative action among the trade groups, by inducing and maintaining united action of labor and management under adequate governmental sanctions and supervision, by eliminating unfair competitive practices, by promoting the fullest possible utilization of the present productive capacity of industries, by avoiding undue restriction of production (except as may be temporarily required), by increasing the consumption of industrial and agricultural products through increasing purchasing power, by reducing and relieving unemployment, by improving standards of labor, and by otherwise rehabilitating industry.

(b) Said Industry normally employs not more than 50,000 employees, and is not classified by me as a major industry.

(c) The Code as approved complies in all respects with the pertinent provisions of said Title of said Act, including without limitation Subsection (a) of Section 3, Subsection (a) of Section 7, and Subsection (b) of Section 10 thereof; and that the applicant association is an industrial association truly representative of the aforesaid Industry; and that said association imposes no inequitable restrictions on admission to membership therein.

(d) The Code is not designed to and will not permit monopolies or monopolistic practices.

(e) The Code is not designed to and will not eliminate or oppress small enterprises and will not operate to discriminate against them.

(f) Those engaged in other steps of the economic process have not been deprived of the right to be heard prior to approval of said Code.

This Industry has cooperated in a most satisfactory manner with the Administrator in the preparation of this Code. From evidence adduced during this hearing and from recommendations and reports of the various Advisory Boards it is believed that this Code as now proposed and revised represents an effective, practical, equitable solution for this Industry, and for these reasons this Code has been approved.

Respectfully,

HUGH S. JOHNSON,
Administrator.

JANUARY 16, 1934.

CODE OF FAIR COMPETITION

FOR THE

MUSICAL MERCHANDISE MANUFACTURING INDUSTRY

ARTICLE I—PURPOSES

To effectuate the policies of Title I of the National Industrial Recovery Act, this Code is established as a Code of Fair Competition for the Musical Merchandise Manufacturing Industry, and shall be the standard of fair competition for this industry and binding upon every member thereof.

ARTICLE II—DEFINITIONS

SECTION 1. The term "musical merchandise" as used herein is defined to mean all musical instruments, and all other allied products commonly dealt in in the musical-instrument business, including all accessories, attachments, supplies, parts, materials, strings for musical instruments, instrument cases and covers, with the exception of the products of the piano, organ, and band-instrument manufacturing industries.

SEC. 2. The term "musical merchandise manufacturing industry" as used herein is defined to mean the production, fabricating, repairing, reconstructing, remodeling, and the assembling of musical merchandise and allied products, and/or materials and supplies thereof as defined in Section 1 of this Article.

SEC. 3. The term "employee" as used herein includes any person engaged in any phase of the industry in any capacity receiving compensation for his services, irrespective of the nature or method of payment of such compensation.

SEC. 4. The term "employer" as used herein includes anyone by whom any such employee is compensated or employed.

SEC. 5. The term "learner" as used herein, shall mean an employee without previous experience or employment in the industry engaged in learning any one of the skilled or semiskilled operations incidental to the musical merchandise manufacturing industry.

SEC. 6. The terms "Act", and "Administrator" as used herein shall mean respectively Title I of the National Industrial Recovery Act, and the Administrator for Industrial Recovery.

ARTICLE III—HOURS

MAXIMUM HOURS

SECTION 1. No employee except as herein otherwise provided shall be permitted to work in excess of forty (40) hours per week, averaged over a four (4) weeks' period; provided, however, that such

employees shall not be employed more than forty eight (48) hours in any one (1) week; and provided further that any employee included in this section may be permitted to work a total of not to exceed eighty (80) additional hours during any twelve (12) months' period, provided that overtime at the rate of time and one third is paid for the additional hours worked over forty (40) hours per week.

Sec. 2. No person employed in clerical or office work shall be permitted to work more than forty (40) hours per week, except that at inventory periods, such employees may work a maximum of forty eight (48) hours per week for a total of not to exceed three (3) weeks in each six (6) months' period, provided that time and one third shall be paid to such employees for all hours per week over forty (40).

EXCEPTIONS

Sec. 3. The foregoing stipulations of Sections 1 and 2 of this Article shall not apply, however, to employees in managerial, supervisory, and executive capacities, technicians on research and engineering staffs, or demonstrators, who receive thirty-five dollars ($35.00) or more per week, nor to commercial traveling salesmen.

Sec. 4. Service men shall not be permitted to work in excess of forty-eight (48) hours per week.

Sec. 5. Watchmen and Firemen shall not be permitted to work more than thirty-six (36) and forty-eight (48) hours in alternate weeks, or an average of forty-two (42) hours per week; or Firemen shall be allowed a ten (10%) percent tolerance on the hours stipulated in Section 1 of this Article.

Employment by Several Employers

Sec. 6. No employee shall be permitted to work for a total number of hours in excess of the number of hours prescribed herein, whether he be employed by one or more employers.

Article IV—Wages

MINIMUM WAGE

Section 1. No male employee shall be paid less than at the rate of thirty-five cents (35¢) per hour. No female employee shall be paid less than at the rate of thirty-two cents (32¢) per hour.

MINIMUM WAGE FOR CLERICAL AND OFFICE EMPLOYEES

Sec. 2. No person employed in clerical or office work shall be paid at a rate less than fifteen dollars ($15.00) per week, except that office boys and office girls who are between the ages of sixteen (16) and eighteen (18) years may be employed at a rate not less than eighty percent (80%) of such minimum wage. The total number of such office boys and office girls employed by any member of the industry shall not exceed one (1) in number or five percent (5%) of the total number of his employees covered under this section, whichever is the higher.

LEARNERS

SEC. 3. No learner shall be paid less than eighty percent (80%) of the minimum wage prescribed in Section 1 of this Article. The period of learning for each operation shall be determined by the Code Authority subject to the approval of the Administrator, but in no case shall such period exceed six (6) months.

HANDICAPPED PERSONS

SEC. 4. A person whose earning capacity is limited because of age or physical or mental handicap may be employed on light work at a wage below the minimum established by this Code if the employer obtains from the State Authority designated by the United States Department of Labor a certificate authorizing his employment at such wages and for such hours as shall be stated in the certificate. Each employer shall file with the Code Authority a list of all such persons employed by him.

PIECEWORK COMPENSATION—MINIMUM WAGES

SEC. 5. This Article establishes a minimum rate of pay which shall apply, irrespective of whether an employee is actually compensated on a time-rate, piecework performance, or other basis.

WAGES ABOVE MINIMUM

SEC. 6. It is the policy of the members of this industry to refrain from reducing the compensation for employment which compensation was prior to June 16, 1933, in excess of the minimum wage herein set forth, notwithstanding that the hours of work in such employment may be reduced; and, unless since such date such adjustments have been made, all members of this industry shall endeavor to increase the pay of all employees in excess of the minimum wage, as herein set forth, by an equitable adjustment of all pay schedules.

FEMALE EMPLOYEES

SEC. 7. Female employees performing substantially the same work as male employees shall receive the same rate of pay as male employees.

ARTICLE V—GENERAL LABOR PROVISIONS

CHILD LABOR PROVISION

SECTION 1. No person under sixteen (16) years of age shall be employed in the industry. No person under eighteen (18) years of age shall be employed at operations or occupations which are hazardous in nature or dangerous to health. The Code Authority shall submit to the Administrator within sixty (60) days after the effective date of this Code a list of such operations or occupations. In any State an employer shall be deemed to have complied with this

provision as to age if he shall have on file a certificate or permit duly issued by the Authority in such State empowered to issue employment or age certificates or permits showing that the employee is of the required age.

PROVISIONS FROM THE ACT

SEC. 2. In compliance with Section 7(a) of the Act it is provided that:

(a) Employees shall have the right to organize and bargain collectively, through representatives of their own choosing, and shall be free from the interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.

(b) No employee and no one seeking employment shall be required as a condition of employment to join any company union or to refrain from joining, organizing, or assisting a labor organization of his own choosing, and

(c) Employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment approved or prescribed by the President.

RECLASSIFICATION OF EMPLOYEES

SEC. 3. No employer shall reclassify employees or duties of occupations performed or engage in any other subterfuge for the purpose of defeating the purposes or provisions of the Act or of this Code.

STANDARDS FOR SAFETY AND HEALTH

SEC. 4. Every employer shall make reasonable provision for the safety and health of his employees at the place and during the hours of their employment.

STATE LAWS

SEC. 5. No provisions in this Code shall supersede any State or Federal laws which impose on employers more stringent requirements as to the age of employees, wages, hours of work, or as to safety, health, sanitary or general working conditions, than are imposed by this Code.

CONTRACT LABOR

SEC. 6. All systems of contracts between employer and employee for the manufacture of any product or part thereof or for work to be done at a specific price and/or by which employees engage other employees to work for them, are prohibited by this Code.

POSTING

SEC. 7. All employers shall post complete copies of this Code in conspicuous places accessible to employees.

Article VI—Organization, Powers, and Duties of the Code Authority

ORGANIZATION

Section 1. A Code Authority is hereby established to cooperate with the Administrator in the administration of this Code and shall consist of not more than seven (7) nor less than three (3) members of the industry to be chosen by a fair method of selection approved by the Administrator. The Administrator in his discretion may appoint not more than three (3) additional members without vote and without compensation from the industry to serve for such period of time and to represent the Administrator or such group or groups as he may designate.

Sec. 2. Vacancies in the personnel of the Code Authority selected by the industry shall be filled through the appointment by the Administrator upon nomination of the Code Authority.

Sec. 3. Each trade or industrial association directly or indirectly participating in the selection or activities of the Code Authority shall impose no inequitable restrictions on membership, and submit to the Administrator true copies of its articles of association, by-laws, regulations, and any amendments when made thereto, together with such other information as to membership, organization, and activities as the Administrator may deem necessary to effectuate the purposes of the Act.

Sec. 4. In order that the Code Authority shall at all times be truly representative of the industry and in other respects comply with the provisions of the Act, the Administrator may provide such hearings as he may deem proper; and if he shall find that the Code Authority is not truly representative or does not in other respects comply with the provisions of the Act, he may take such action as he may deem necessary under the circumstances.

Sec. 5. Members of the industry shall be entitled to participate in and share the benefits of the activities of the Code Authority and to participate in the selection of the members thereof by assenting to and complying with the requirements of this Code and sustaining their reasonable share of the expenses of its administration. Such reasonable share of the expenses of administration shall be determined by the Code Authority, subject to review and disapproval by the Administrator, on the basis of volume of business and/or such other factors as may be deemed equitable.

Sec. 6. Nothing contained in this Code shall constitute the members of the Code Authority partners for any purpose. Nor shall any member of the Code Authority be liable in any manner to anyone for any act of any other member, officer, agent, or employee of the Code Authority. Nor shall any member of the Code Authority, exercising reasonable diligence in the conduct of his duties hereunder, be liable to anyone for any action or omission to act under this Code, except for his own willful misfeasance or nonfeasance.

POWERS AND DUTIES

Sec. 7. The Code Authority shall have the following powers and duties to the extent permitted by the Act, subject to the right of the

Administrator, on review, to disapprove of any action taken by the Code Authority.

(a) To administer the provisions of this Code and provide for the compliance of the industry with the provisions of the Act.

(b) To adopt bylaws and rules and regulations for its procedure and for the administration and enforcement of the Code.

(c) To obtain from members of the industry as soon as the necessary readjustments within the industry can be made, reports based on periods of one, two, or four weeks, or multiples thereof, for use of the Code Authority and the Administrator in the administration and enforcement of the Code, and to give assistance to members of the industry in improving methods, or in prescribing a uniform system of accounting and reporting. All individual reports shall be kept confidential and only general summaries thereof may be published.

(d) To obtain from members of the industry such additional information and reports as are required for the administration of the Code and to provide for submission by members of such information and reports as the Administrator may deem necessary for the purposes recited in Section 3 (a) of the Act, which information and reports shall be submitted by members to such administrative and/or government agencies as the Administrator may designate; provided that nothing contained in this Code shall relieve any member of the industry of any existing obligations to furnish reports to any government agencies. No individual reports shall be disclosed to any other member of the industry or any other party except to such governmental agencies as may be directed by the Administrator.

(e) To receive complaints of violations of this Code, make investigations thereof, provide hearings thereon and adjust such complaints, and bring to the attention of the Administrator for prosecution, recommendations, and information relative to unadjusted violations.

(f) To use the National Association of Musical Merchandise Manufacturers or other trade associations and agencies as it deems proper for the carrying out of any of its activities provided for herein and with the approval of the Administrator to pay such trade associations and agencies the cost thereof, provided that nothing contained herein shall relieve the Code Authority of its duties or responsibilities under this Code and that such trade associations and agencies shall at all times be subject to and comply with the provisions hereof.

(g) To coordinate the administration of this Code with such other codes, if any, as may be related to the industry, or any subdivision thereof, and to delegate to any other administrative authority, with the prior approval of the Administrator, such powers as will promote joint and harmonious action upon matters of common interest.

(h) To secure from members of the industry who assent to this Code and/or participate in the activities of the Code Authority such proportionate payment of the expenses of maintaining the Code Authority as may be determined by the Code Authority and approved by the Administrator.

(i) To cooperate with the Administrator in regulating the use of the N.R.A. Code Insignia solely by those employers who have agreed to, and are complying with, this Code.

(j) To initiate, consider, and make recommendations for the modification or amendment of this Code.

Article VII—Trade Practice Rules

General definition

For all purposes of the Code the acts described in this Article shall constitute unfair practices. Any member of the industry who shall directly or indirectly through any officer, employee, agent, or representative, knowingly use, employ, or permit to be employed, any of such unfair practices shall be guilty of a violation of the Code.

Section 1. No member of the industry shall publish advertising (whether printed, radio, display, or of any other nature), which is misleading or inaccurate in any material particular, nor shall any member, in any way misrepresent any goods (including but without limitation its use, trade mark, grade, quality, quantity, origin, size, substance, character, nature, finish, material, content, or preparation) or credit terms, values, policies, services, or the nature or form of the business conducted.

Sec. 2. No member of the industry shall use advertising or selling methods or credit terms which tend to deceive or mislead the customer or prospective customer.

Sec. 3. No member of the industry shall knowingly withhold from or insert in any quotation or invoice any statement that makes it inaccurate in any material particular.

Sec. 4. No member of the industry shall brand or mark or pack any goods in any manner which is intended to or does deceive or mislead purchasers with respect to the brand, grade, quality, quantity, origin, size, substance, character, nature, finish, material, content, or preparation of such goods.

Sec. 5. No member of the industry shall use advertising or other representation which refers inaccurately in any material particular to any competitors of their commodities, prices, values, credit terms, policies, or services.

Sec. 6. No member of the industry shall publish or circulate unjustified or unwarranted threats of legal proceedings which tend to or have the effect of harassing competitors or intimidating their customers. Failure to prosecute in due course shall be evidence that any such threat is unwarranted or unjustified.

Sec. 7. No member of the industry shall secretly offer or make any payment or allowance of a rebate, refund, commission, credit, unearned discount, or excess allowance, whether in the form of money or otherwise, nor shall a member of the industry secretly offer or extend to any customer any special service or privilege not extended to all customers of the same class, for the purpose of influencing a sale.

Sec. 8. No member of the industry shall ship commodities on memorandum or consignment, except under contract or bona fide orders.

Sec. 9. No member of the industry shall give, permit to be given, or directly offer to give anything of value for the purpose of influencing or rewarding the action of any employee, agent, or representative of another in relation to the business of the employer of such employee, the principal of such agent, or the represented party without the knowledge of such employer, principal, or party. Commercial bribery provisions shall not be construed to prohibit free and general distribution of articles commonly used for advertising except so far as such articles are actually used for commercial bribery as hereinabove defined.

Sec. 10. No member of the industry shall attempt to induce the breach of an existing contract between a competitor and his employee or customer or source of supply; nor shall any such member interfere with or obstruct the performance of such contractual duties or services.

Sec. 11. No member of the industry shall repudiate a contract entered into in good faith when the purpose of such repudiation is to create for such member an unfair price advantage.

Article VIII—Modification

1. This Code and all the provisions thereof are expressly made subject to the right of the President, in accordance with the provisions of subsection (b) of Section 10 of the National Industrial Recovery Act, from time to time to cancel or modify any order, approval, license, rule, or regulation issued under said Act.

2. This Code, except as to provisions required by the Act, may be modified or amended on the basis of experience or changes in circumstances, such modification or amendments to be based upon application to the Administrator and such notice and hearings as he shall specify, and to become effective on approval of the Administrator unless otherwise provided.

Article IX—Monopolies, Etc.

No provision of this Code shall be so applied as to permit monopolies or monopolistic practices, or to eliminate, oppress, or discriminate against small enterprises.

Article X—Price Increases

Whereas the policy of the Act to increase real purchasing power will be made impossible of consummation if prices of goods and services increase as rapidly as wages, it is recognized that price increase except such as may be required to meet individual cost should be delayed. But when made such increases should, so far as possible, be limited to actual additional increases in the seller's costs.

Article XI—Effective Date

This Code shall become effective on the second Monday after its approval by the Administrator.

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